IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA ROANOKE DIVISION

| THE COUNTY OF GRAYSON, VIRGINIA, |) |
|---|--------------------------|
| RICHARD VAUGHAN, IN HIS OFFICIAL CAPACITY AS SHERIFF OF GRAYSON COUNTY, VIRGINIA, |)))) |
| and |))) |
| THE COUNTY OF CARROLL, VIRGINIA, |)) |
| Plaintiffs, |) Case No. 7:13-cv-00384 |
| v. |)) |
| RA-TECH SERVICES, INC., |))) |
| JOHN T. SPANE, | ý) |
| and |) |
| DALE W. SUTPHIN, |))) |
| Defendants. | ,) |

MOTION TO DISMISS THE AMENDED COMPLAINT PURSUANT TO RULES 12(b)(6) AND 9(b)

Defendants Ra-Tech Services, Inc. and John T. Spane, by and through their attorneys, submit this Motion to Dismiss the Amended Complaint, Pursuant to Rules 12(b)(6) and 9(b) of the Federal Rules of Civil Procedure. In support thereof, Defendants rely on the accompanying memorandum of law.

WHEREFORE, Defendants Ra-Tech Services, Inc. and John T. Spane request that the Court dismiss Plaintiffs' claims against them with prejudice.

Respectfully submitted this 30th day of September, 2013.

RA-TECH SERVICES, INC. & JOHN T. SPANE

By: /s/ Gregory D. Habeeb
Of Counsel

Gregory J. Haley (VSB No. 23971) Gregory D. Habeeb (VSB No. 46926) Daniel R. Sullivan (VSB No. 81550) GENTRY LOCKE RAKES & MOORE, LLP 800 SunTrust Plaza P. O. Box 40013 Roanoke, VA 24022-0013 (540) 983-9300 Fax: (540) 983-9400

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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of September, 2013, I electronically filed the foregoing instrument with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

James E. Cornwell (VSB No. 13983) Stephen V. Durbin (VSB No. 70963) Sands Anderson P.C. P.O. Box 2009 Christiansburg, VA 24068 Counsel for plaintiffs

In addition, a true and correct copy of the foregoing instrument was sent by U.S. Mail, first class, to defendant Dale W. Sutphin, at his last known address.

/s/ Gregory D. Habeeb